

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ANTHONY J BROOKS,

Case No.: 3:19-cv-00332-MMD-WGC

4 Plaintiff

Order

5 v.

6 UNITED STATES
7 DEPARTMENT OF JUSTICE,

8 Defendant

9
10 Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC),
11 and is housed at Ely State Prison (ESP). He filed a civil rights complaint against President
12 Donald J. Trump alleging a violation of the Freedom of Information Act (FOIA). (ECF No. 1-1.)
13 Plaintiff did not pay the filing fee or submit a completed application to proceed in forma pauperis
14 (IFP); therefore, the court issued an order directing the Clerk to send Plaintiff the instructions
15 and application to proceed IFP for an inmate and gave Plaintiff 30 days to file a completed
16 application or pay the filing fee. The court also noted that once the filing fee was paid or the IFP
17 application filed and granted, the court would have to screen the complaint under 28 U.S.C. §§
18 1915(e)(2)(B), 2925A. The court undertook a preliminary review of the complaint and found
19 Plaintiff stated a plausible FOIA claim, but he named the wrong defendant. Therefore, the court
20 also gave Plaintiff 30 days to file an amended complaint. He was advised that if he failed to do
21 so, his action would be dismissed. (ECF No. 4.)

22 Plaintiff filed his amended complaint against the Department of Justice on August 5,
23 2019. (ECF No. 6.) He did not file the completed IFP application or pay the filing fee. On
August 6, 2019, the court gave Plaintiff 21 days to file the completed IFP application or pay the

1 filing fee. Again, he was warned that a failure to do so would result in dismissal of his case.
2 (ECF No. 7.)

3 On August 7, 2019, Plaintiff filed a motion asking for an extension of time to file the IFP
4 application. (ECF No. 8.) The court granted Plaintiff until September 17, 2019, to file the
5 application or pay the filing fee. Plaintiff was advised there would be no further extensions, and
6 if he failed to comply his action would be dismissed. (ECF No. 9.)

7 On September 11, 2019, Plaintiff filed a notice of compliance that he filed his financial
8 certificate for the IFP application. (ECF No. 10.) He did not file the application to proceed IFP
9 that should have accompanied the financial certificate. Plaintiff will be given one final
10 opportunity to submit his application to proceed, and if he fails to comply this action will be
11 dismissed without prejudice.

12 On September 25, 2019, he filed a Notice/Request for Mediation/Arbitration, but this is
13 premature as he has not yet been granted IFP status or paid the filing fee. (ECF No. 11.)


14 **CONCLUSION**

15 The Clerk shall **SEND** Plaintiff the IFP application for a prisoner and instructions.
16 Plaintiff has **21 days** from the date of this Order to file the completed application or pay the \$400
17 filing fee. If Plaintiff fails to do so, this action will be dismissed without prejudice.

18 The Notice/Request for Mediation/Arbitration is **DENIED WITHOUT PREJUDICE** as
19 premature.

20 **IT IS SO ORDERED.**

21 Dated: September 26, 2019

22 
23 William G. Cobb
United States Magistrate Judge